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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)	
)	
MUR 6671)	DISMISSAL AND
Weber for Congress and)	CASE CLOSURE UNDER THE
Robert Nolen as treasurer)	ENFORCEMENT PRIORITY
Carl Davis)	SYSTEM
Richard Hawkins)	
Kevin Lilly)	
Charles Medlin)	
Michael Ramsey)	
Myla Ramsey)	
Kent Watts)	

GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System, the Commission uses formal scoring criteria as a basis to allocate its resources and decide which matters to pursue. These criteria include, without limitation, an assessment of the following factors: (1) the gravity of the alleged violation, taking into account both the type of activity and the amount in violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in potential violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), and developments of the law. It is the Commission's policy that pursuing relatively low-rated matters on the Enforcement docket warrants the exercise of its prosecutorial discretion to dismiss cases under certain circumstances and, where appropriate, to find no reason to believe that a violation has occurred. The Office of General Counsel has determined that MUR 6671 should not be referred to the Alternative Dispute Resolution Office.

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The Office of General Counsel has scored MUR 6671 as a low-rated matter.¹ For the reasons set forth below, the Office of General Counsel recommends that the Commission find no reason to believe that Weber for Congress and Robert Nolen in his official capacity as treasurer (the "Committee") violated 2 U.S.C. § 441a(f) by accepting excessive contributions. The Office of General Counsel also recommends that the Commission find no reason to believe that Carl Davis, Richard Hawkins, Kevia Lilly, Charles Medlin, Michael Ramsey, Myla Ramsey, and Kent Watts violated 2 U.S.C. § 441a(a)(1)(A) by making excessive contributions. In addition, the Office of General Counsel recommends that the Commission exercise its prosecutorial discretion and dismiss this matter as to Weber for Congress and Robert Nolen in his official capacity as treasurer as it pertains to the apparent misreporting of certain contributions in violation of 2 U.S.C. § 434(b).

The Complainant, Irmalyn Thomas, alleges that the Committee violated the Act by accepting contributions that exceeded the limits as set forth in 2 U.S.C. § 441a(a)(1)(A). Compl. at 2-3. Weber for Congress is the principal campaign committee of Congressman Randy Weber, 2012 candidate for Texas' 14th congressional district.²

The Complaint specifically alleges that the Committee's 2012 October Quarterly Report discloses contributions from seven individuals in excess of the \$2,500 limit. Compl. at 3. The Complaint further alleges that the Committee received these contributions after the date of the primary and "designated each of these contributions in its entirety for the general election."

1 The EPS rating information is as follows: Complaint Filed: October 23, 2012. Response
from Weber for Congress Filed: November 18, 2012; Response from Carl Davis Filed: November 15, 2012;
Response from Richard Hawkins Filed: December 6, 2012; Response from Kevin Lilly Filed: November 14, 2012;
Response from Charles Medlin Filed: November 8, 2012; Response from Kent Watts Filed: January 14, 2013.
Michael and Myla Ramsey have not filed responses.

² Weber won the primary election held on May 29, 2012, the runoff election on July 31, 2012, and the November 6, 2012 general election.

1 Compl. at 2. Complainant asserts that “the facially excessive portions of these contributions
2 totaled \$22,500.” *Id.*

3 In its Response, the Committee argues that the Complaint “seized upon errors in [its]
4 third quarter report which were largely the result of data entry mistakes.” Committee Resp. at 1.
5 The Committee states that these “errors” were corrected in a timely manner “more than a week
6 before receiving official notice of [the] complaint.” *Id.* In addition, the Committee contends that
7 all of the contributions at issue “were legally made and accepted,” and that its amended report
8 “reflects the appropriate attributions and designations.” *Id.*

9 Political committees are prohibited from knowingly accepting contributions from an
10 individual with respect to any Federal election that exceed, in the aggregate, the limitations set
11 forth at 2 U.S.C. § 441a(a)(1)(A). *See* 2 U.S.C. § 441a(f). In the 2011-2012 election cycle, the
12 individual per-election contribution limit was \$2,500. *See*
13 <http://www.fec.gov/press/20110203newlimits.shtml>. A joint contribution is a contribution that is
14 made by more than one person using a single check or other written instrument, and each person
15 must sign the check (or written instrument) or a statement that accompanies the contribution.
16 11 C.F.R. § 110.1(k)(1). When a committee receives a contribution that appears excessive on its
17 face, the committee’s treasurer may either return the contribution to the contributor within ten
18 days or deposit it, in which case the campaign may retain the contribution if it is properly
19 reattributed to another person or redesignated for another election within 60 days of receipt.
20 11 C.F.R. § 103.3(b)(3). A contribution is properly reattributed if, within the 60-day period, the
21 contributors provide the committee with a signed, written statement reattributing the
22 contribution, or if the committee otherwise notifies the contributors in accordance with the
23 presumptive reattribution provisions. 11 C.F.R. § 110.1(k)(2)-(3).

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1 Three of the contributions cited in the Complaint — a \$5,000 contribution from Carl
2 Davis, a \$7,500 contribution from Michael Ramsey, and a \$7,500 contribution from Myla
3 Ramsey — were incorrectly reported as designated for the general election on the Committee's
4 2012 October Quarterly Report. In its Response, the Committee states that, due to a "data entry
5 error," these contributions were not reported correctly. Committee Resp. at 2, 4. Included in the
6 Response are copies of the checks from each of these individuals. The check from Carl Davis
7 indicates that the contribution is to be attributed to both himself and his wife, Lois, as it appears
8 to be signed by both of them. *Id.*, Ex. A. The cover letter accompanying the Ramsey's checks
9 states that their contributions are to be designated for the primary, runoff, and general elections.³
10 *Id.*, Exs. I-J. The Committee's Amended 2012 October Quarterly Report appears to accurately
11 disclose these contributions consistent with the contributors' intent. *See* Amended 2012 October
12 Quarterly Report, dated Oct. 24, 2012.

13 The other four contributions cited in the Complaint — a \$5,000 contribution from
14 Richard Hawkins, a \$5,000 contribution from Kevin Lilly, a \$5,000 contribution from Charles
15 Medlin, and a \$5,000 contribution from Kent Watts — were reported as designated for the
16 general election on the Committee's 2012 October Quarterly Report. In its Response, the
17 Committee provided copies of checks from Hawkins, Medlin, and Watts (*see* Committee Resp.,
18 Exs. B, D), as well as copies of letters it sent to the donors noting the apparent joint contributions
19 and either requesting reattribution or informing them of the Committee's presumptive

³ Both of the checks from Michael and Myla Ramsey were in the amount of \$7,500, the aggregate maximum contribution for the three elections in which Weber was a candidate during the 2011-2012 election cycle. The Ramsey's contributions were received after the primary and runoff elections but before the general election. Commission regulations state that a committee may accept contributions after an election if the campaign has net debts outstanding for the designated election on the day it receives the contribution. 11 C.F.R. § 110.1(b)(3)(iii). The Committee reported \$226,500 in outstanding debt at the time the Ramsey's contributions were received. *See* 2012 October Quarterly Report.

1 reattribution, and including the option to receive a refund.⁴ (*Id.*, Exs. C, E, F, H). The
2 Committee properly disclosed the reattribution notices as memo entries on its Amended 2012
3 October Quarterly Report and disclosed the reattributions on the reports covering the time period
4 during which they were made or obtained. The Committee's Response and documents attached
5 therein indicate that these contributions were reattributed within 60 days and complied with the
6 other applicable requirements set forth in the Commission's regulations. *See* 11 C.F.R.
7 §§ 103.3(b)(3), 110.1(k)(2)-(3).

8 Based on the facts presented, it appears that the Committee did not receive excessive
9 contributions as described in the Complaint because it either amended its initial filing to reflect
10 the contributors' intent, or reattributed contributions in accordance with Commission regulations.
11 Therefore, the Office of General Counsel recommends that the Commission find no reason to
12 believe that Weber for Congress and Robert Nolen in his official capacity as treasurer violated
13 2 U.S.C. § 441a(f) by accepting excessive contributions. The Office of General Counsel also
14 recommends that the Commission find no reason to believe that Carl Davis, Richard Hawkins,
15 Kevin Lilly, Charles Medlin, Michael Ramsey, Myla Ramsey, and Kent Watts violated 2 U.S.C.
16 § 441a(a)(1)(A) by making excessive contributions.

17 The Committee, however, appears to have initially misreported three of the contributions
18 identified in the Complaint in violation of 2 U.S.C. § 434(b). The Committee subsequently
19 corrected its errors in a timely manner and appears to have reported the transactions correctly on
20 its amended and subsequent filings.

⁴ In its Response, the Committee states that the Hawkins check was imprinted with the names of both Richard and Adrienne Hawkins, but only signed by Richard Hawkins. The Committee notes that, "[c]onsistent with Commission regulations, [it] attributed the permissible portion to the signer (Mr. Hawkins) and presumptively reattributed \$2,500 to Adrienne Hawkins." (Committee Resp. at 2). The Committee sent a notification letter to Mr. and Mrs. Hawkins, informing them that the excessive portion of the contribution had been presumptively attributed to Adrienne, and that if it was not intended as a joint contribution, a refund may be requested. *Id.*, Ex. F.

Therefore, the Office of General Counsel recommends, in furtherance of the Commission's priorities and relative to other matters pending on the Enforcement docket, that the Commission exercise its prosecutorial discretion and dismiss this matter as to Weber for Congress and Robert Nolen in his official capacity as treasurer as it pertains to the apparent misreporting of contributions. *See Heckler v. Chaney*, 470 U.S. 821 (1985). Finally, the Office of General Counsel recommends that the Commission approve the attached Factual and Legal Analyses and close the file.

RECOMMENDATIONS

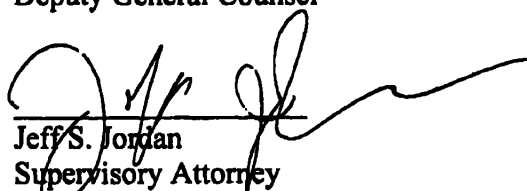
1. Find no reason to believe that Weber for Congress and Robert Nolen in his official capacity as treasurer violated 2 U.S.C. § 441a(f) by accepting excessive contributions;
2. Find no reason to believe that Carl Davis, Richard Hawkins, Kevin Lilly, Charles Medlin, Michael Ramsey, Myla Ramsey, and Kent Watts violated 2 U.S.C. § 441a(a)(1)(A) by making excessive contributions;
3. Dismiss this matter as to Weber for Congress and Robert Nolen in his official capacity as treasurer as it pertains to the apparent misreporting of certain contributions in violation of 2 U.S.C. § 434(b);
4. Approve the attached Factual and Legal Analyses; and
5. Close the file.

Anthony Herman
General Counsel

5/30/13
Date

BY:


Gregory R. Baker
Deputy General Counsel


Jeff S. Jordan
Supervisory Attorney
Complaints Examination
& Legal Administration

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